

AMENDED IN SENATE MARCH 4, 2015

SENATE BILL

No. 35

Introduced by Senator Wolk
(Principal coauthor: Assembly Member Dodd)

December 1, 2014

An act to add Sections 17207.14 and 24347.14 to the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

SB 35, as amended, Wolk. Income and corporation taxes: deductions: disaster relief: ~~Counties of Napa, Solano, and Sonoma: relief.~~

The Personal Income Tax Law and the Corporation Tax Law provide for a deduction ~~and the carryover to specified taxable years~~ of specified losses sustained as a result of ~~certain~~ disasters occurring in California in an area determined by the President of the United States to warrant specified federal assistance or, *for other disasters for which a specific law has been enacted*, proclaimed by the Governor to be in a state of emergency. Those laws ~~further~~ allow a taxpayer to elect to deduct those disaster losses on the return for the taxable year preceding the taxable year in which the disaster occurred, *filed by a specified date*. Existing law also allows individual and corporate taxpayers to utilize net operating losses and carryovers and carrybacks of those losses for purposes of offsetting their individual and corporate tax liabilities. Existing law, for net operating losses incurred in taxable years beginning on or after January 1, 2013, allows net operating losses to be carrybacks to each of the preceding 2 taxable years, as provided, but varies the amount of carryback allowed for net operating losses attributed to specified taxable years.

This bill would, *for taxable years beginning on or after January 1, 2014, extend these the provisions relating to disaster losses sustained in the Counties of Napa, Solano, and Sonoma as a result of the earthquake that occurred in August 2014 for which the Governor proclaimed a state of emergency to losses in any city, county, or city and county that is proclaimed by the Governor to be in a state of emergency and would extend the time during which a taxpayer may claim the deduction. This bill would additionally provide that any law that suspends, defers, reduces, or otherwise diminishes the deduction of a net operating loss, other than those variations already imposed in existing law, shall not apply to a net operating loss attributable to these specified disaster losses.*

This bill would make a legislative finding and declaration relating to the statewide public purpose served by the bill.

This bill would take effect immediately as a tax levy.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 17207.14 is added to the Revenue and
- 2 Taxation Code, to read:
- 3 17207.14. (a) *For taxable years beginning on or after January*
- 4 *1, 2014, Section 165(i) of the Internal Revenue Code, relating to*
- 5 *disaster losses, shall be applicable to any losses loss sustained in*
- 6 *the Counties of Napa, Solano, and Sonoma as a result of the*
- 7 *earthquake that occurred in August 2014 as a result of any disaster*
- 8 *occurring in any city, county, or city and county in this state that*
- 9 *is proclaimed by the Governor to be in a state of emergency.*
- 10 (b) (1) For losses described in subdivision (a), the election
- 11 under Section 165(i) of the Internal Revenue Code, *relating to*
- 12 *disaster losses*, may be made on a return or amended return filed
- 13 on or before the due date of the return, determined with regard to
- 14 *any extension of time for filing the return*, for the taxable year in
- 15 which the disaster occurred.
- 16 (2) *Notwithstanding Section 18572, this subdivision shall apply*
- 17 *to any loss described in subdivision (a).*
- 18 (c) Unless specifically provided otherwise, any law, other than
- 19 Section 17276.20, that suspends, defers, reduces, or otherwise
- 20 diminishes the deduction of a net operating loss shall not apply to

1 a net operating loss attributable to the loss described in subdivision
2 (a).

3 SEC. 2. Section 24347.14 is added to the Revenue and Taxation
4 Code, to read:

5 24347.14. (a) *For taxable years beginning on or after January*
6 *1, 2014, Section 165(i) of the Internal Revenue Code, relating to*
7 *disaster losses, shall be applicable to any losses loss sustained in*
8 ~~*the Counties of Napa, Solano, and Sonoma as a result of the*~~
9 ~~*earthquake that occurred in August 2014. as a result of any disaster*~~
10 ~~*occurring in any city, county, or city and county in this state that*~~
11 ~~*is proclaimed by the Governor to be in a state of emergency.*~~

12 (b) (1) For losses described in subdivision (a), the election
13 under Section 165(i) of the Internal Revenue Code, *relating to*
14 *disaster losses*, may be made on a return or amended return filed
15 on or before the due date of the return, determined with regard to
16 *any extension of time for filing the return*, for the taxable year in
17 which the disaster occurred.

18 (2) *Notwithstanding Section 18572, this subdivision shall apply*
19 *to any loss described in subdivision (a).*

20 (c) Unless specifically provided otherwise, any law, other than
21 Section 24416.20, that suspends, defers, reduces, or otherwise
22 diminishes the deduction of a net operating loss shall not apply to
23 a net operating loss attributable to the loss described in subdivision
24 (a).

25 SEC. 3. The Legislature finds and declares that this act fulfills
26 a statewide public purpose because ~~of both of the following:~~ *it is*
27 *consistent with, and supplements, the proclaimed disaster*
28 *assistance and relief by providing necessary tax relief to persons*
29 *in the affected jurisdictions by allowing them to maintain essential*
30 *basic services and repair damage to, and restore, their homes and*
31 *businesses.*

32 (a) ~~On August 24, 2014, the Governor of California proclaimed~~
33 ~~a state of emergency due to the South Napa Earthquake that~~
34 ~~occurred in August 2014 within the Counties of Napa, Solano, and~~
35 ~~Sonoma, thus qualifying affected persons for various forms of~~
36 ~~governmental assistance and relief.~~

37 (b) ~~This act is consistent with, and supplements, the proclaimed~~
38 ~~disaster assistance and relief by providing necessary tax relief to~~
39 ~~persons in the affected jurisdictions by allowing them to allow~~

1 ~~them to maintain essential basic services and repair damage to,~~
2 ~~and restore, their homes and businesses.~~

3 SEC. 4. This act provides for a tax levy within the meaning of
4 Article IV of the Constitution and shall go into immediate effect.

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